

# Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Export Controls and Trade Laws

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## SPECIAL REPORT: ADMINISTRATION STEPS UP PUSH FOR COLOMBIA FTA

Administration officials apparently realize the Democrat-controlled Congress will approve only two more free trade agreements (FTAs) before President Bush leaves office in 15 months. With the Peru FTA lined up for approval in the next month or so, they want that second FTA to be Colombia. To get a vote on Colombia, administration officials have launched a concerted effort, with speeches and lobbying, but also a steady stream of visits to Latin America accompanied by congressional delegations (Codels). The Colombian FTA has moved to the front of the line because of problems the Panama FTA now faces (see story page 3).

**Editor's Note:** WTTL was among a small group of journalists that accompanied Commerce Secretary Carlos Gutierrez to Colombia Oct. 12-14 with six members of Congress and 16 congressional aides. This Special Report gives a snapshot of what the lawmakers saw and heard on their trip (see stories below and on page 2).

The new coordinated push for the Colombia FTA began with an Oct. 9 speech by Secretary of State Condoleezza Rice to the Council on Foreign Relations, followed by President Bush's speech in Miami on Oct. 12. Gutierrez's trip to Colombia was the second Codel he has taken there in a month, and he is likely to take more lawmakers on additional trips in the next month. U.S. Trade Representative (USTR) Susan Schwab is also expected to head to Colombia with some members of Congress in early November, and Rice and Treasury Secretary Henry Paulson are tentatively scheduled to make trips there as well.

The stepped up effort is based on the hope that the Colombian FTA will get a vote in Congress before lawmakers have to vote on another extension of the Andean Trade Preferences Act (ATPA) in February. "In February, it will be an awkward moment to have to explain to the American people why we are voting to give Colombian farmers and small businesses preferences to our market but we refuse to vote give our farmers and small business preferences to the Colombian market," Gutierrez told reporters on the plane returning from Colombia.

### GUTIERREZ SEES VISITS TO COLOMBIA AS BEST ARGUMENT FOR FTA

Commerce Secretary Carlos Gutierrez would probably like to take all the members of the House and Senate to Colombia in the coming months so they can see for themselves the changes that have been made in the country in the last five years. While he won't be able to arrange that, he and other members of the Cabinet are taking as many as are willing to go "We're not pushing members," Gutierrez told reporters returning from his Oct. 12-14 trip. "We're saying

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come, look at the facts, talk to the people, ask whatever you want,” he explained. “I get the impression that they are thinking differently about it, so, I think, time is an ally,” he said. “The more people know the facts, what’s at stake, what Colombia is all about, what the FTA is all about, it should be our easiest vote,” Gutierrez argued.

With Gutierrez on his latest trip were Reps. Eliot Engel (D-N.Y.), Gregory Meeks (D-N.Y.), John Salazar (D-Colo.), Jim McDermott (D-Wash.), Doc Hastings (R-Wash.), and William Sali (R-Idaho). In September, Gutierrez took eight other lawmakers to Colombia. “The first group that we brought went back to D.C. and told other members what they saw,” Gutierrez said. “So the important thing is not just the six members who are here but the multiplying effect that they will have when they go back and they can tell others what they have seen,” he added.

On the latest trip, U.S. lawmakers spent all of Saturday Oct. 13 with Colombian President Alvaro Uribe, who accompanied them on a two-hour flight into the jungles of Choco Province to visit Bojaya, an Afro-Colombian village the government rebuilt after it had been badly damaged in fighting between paramilitary troops and the FARC insurgent group in 2002.

The lawmakers spent Oct. 14 in Medellin with Mayor Sergio Fajardo, who took them on a tour of the city’s barrio to show off new schools and libraries that have been built in that section, and a new cable car system that links workers from the barrio to downtown. The lawmakers also met with young men and women who are part of a program to demilitarize members of drug, guerilla and military groups and to give them job training and psychological help.

The U.S. embassy arranged for both pro and anti-FTA union officials to meet with the Codel on Oct. 12. The anti-FTA group had a two-hour meeting with the lawmakers, and the pro-FTA group met with them for 45 minutes. While giving the anti-FTA union leaders so much time to argue their case against the accord was admittedly risky for the administration, Gutierrez said he wanted to provide the members of Congress a balanced discussion of union issues.

On the previous Codel in September, “there was a sense that we were playing games, because we only brought forward the pro-FTA side,” Gutierrez told reporters traveling with him. “The last thing we want is for people to think that somehow this is some big orchestrated sell, because, if anything, Colombia is the most wide open country I can think of in Latin America,” he added. “I didn’t want them to go back and say these guys are pulling a sell job on us.”

## **LABOR PICTURE IN COLOMBIA IS MURKIER THAN VIEW FROM WASHINGTON**

Democrats in Congress have identified two main concerns that are blocking their approval of the Colombia FTA: the killing of union leaders in the country and the failure of the government in Bogota to bring those responsible for the killings to justice. These concerns are fueled in part by objections raised by the major Colombian labor unions that oppose the accord. In Colombia, however, a new small group of union officials has broken ranks from the leading unions and are speaking out in favor of the trade pact. U.S. lawmakers visiting Colombia Oct. 12-14 got to hear the arguments of both anti- and pro-FTA union members and found the labor situation to be more complex than it appears from Washington.

After the meetings, union officials from both sides told reporters what they had told the members in their closed-door briefings. Anti-FTA officials complained about changes in Colombian law in 1990 that weakened the rights of workers. In some cases, unionized companies were able to reorganize with a new name and cancel previous union contracts. Although the government of Colombian President Alvaro Uribe provides armed protection for some union leaders, the issue isn’t just the attack on union leaders but the attack on unions themselves. “We think the government programs for security are more noise than reality,” Ivan Lopez, executive secretary of the Confederation of Colombian Workers (CTC) told WTTL. “The problem is not our security; the problem is the government is killing unions,” he said. Provisions in the FTA to assure compliance with core International Labor Organization (ILO) standards aren’t enough,

he argued. "The problem with the free trade agreement is the asymmetry between our economy and your economy," Lopez said. Union leaders pointed out that exports account for only 30% of Colombia's GDP and 80% of those exports are in commodities or raw materials.

The three main anti-FTA union groups at the meeting, known by their Spanish initials as the CTC, CGT and CUT, are confederations of other unions that represent about 800,000 workers. One of the largest unions represents teachers and other government workers not affected by trade. There are about 19 million workers in Colombia, of whom eight million are in the formal sector and 1.5 million belong to unions.

The pro-FTA groups, which were formed four months ago, are splinter elements within these larger unions. They say they represent about 80,000 workers in private sector industries, including textiles, bananas, gold mining, flowers, construction, and beverage and processed food production. Pro-FTA unionists contend the violence against union leaders isn't unique, but a problem for all elements of the country. "Yes, violence exists," said Fernando Alameda. "It's against the Colombian people in general. Violence is everywhere. It's not specific. Judges die; prosecutors die; political figures die. The most protected in Colombia are the syndicates [unions]," he said. Alameda argued that the large unions haven't asked their members whether they support or oppose the FTA. "The leaders never asked," he asserted.

Also confusing the labor picture in Colombia is the historic relationship unions have had with left wing parties in the country that have opposed the Uribe government. "There are union leaders who have relationships with armed groups," Alameda charged. Some of the killings of labor leaders that are blamed on their union activities are actually the result of relationships with drug traffickers and military groups, he asserted.

## **U.S. TOLD PANAMA'S PRESIDENT CHANGE NEEDED FOR FTA APPROVAL**

When Panamanian President Martin Torrijos was in Washington in early October, U.S. officials told him something has to be done about removing Pedro Miguel Gonzalez-Pinzon from the presidency of the Panamanian Assembly before Congress will vote on the U.S.-Panama Free Trade Agreement (FTA). "We're very disappointed, and we have told President Torrijos that he should talk to the legislature, and we expect the problem to be solved," Gutierrez told reporters on his flight back from an Oct. 12-14 trip to Colombia (see **WTTL**, Oct. 3, page 1).

"We're not going to tell him what to do, because I think that just flies in the face of what people have criticized historically about the U.S. relationship with Latin American countries. So we're not going to fall into that trap," Gutierrez said.

Gutierrez noted that the presidency and legislature in Panama are independent branches of the government and there is a separation of powers. But he pointed out that Torrijos and Gonzalez-Pinzon are members of the same political party. "So I assume they talk to each other," he said. While Torrijos was in Washington, "the only commitment he gave us is that he is going to try to sort something out," Gutierrez reported. "When he came in, he talked to me; he talked to Secretary Rice; he talked to several people. So, he's getting pressure," he said. "They understood what we were saying," Gutierrez added.

## **BRAZIL MAY TARGET U.S. PATENTS IN RETALIATION OVER COTTON DISPUTE**

If the U.S. doesn't take additional steps to come into compliance with a 2005 World Trade Organization (WTO) ruling against subsidies paid to U.S. cotton growers, Brazil, which brought the complaint, may seek compensation by reducing protection for U.S. patents and trademarks, according to sources in Geneva. The potential for retaliation looms larger following the leaked release of a panel report which has found the U.S. still not in compliance with the earlier ruling. Formal release of the Article 21.5 compliance panel ruling, which reviewed steps

Washington has taken to come into compliance, is expected in a few weeks. Brazil agitated for the panel because it said the U.S. had not complied with the original dispute panel and Appellate Body reports on cotton. The U.S. claimed it had complied, but Brazil argued the measures were not sufficient. "This panel has said the U.S. has not complied," one source familiar with the report told WTTL.

The panel findings could mean the U.S. will have to cut subsidies for cotton farmers further to comply with the WTO rulings. The report details what needs to be fixed, but it has only been distributed to Brazil and the U.S. Washington is expected to appeal the decision to the WTO Appellate Body. If the Appellate Body agrees with the panel's findings and the U.S. still doesn't take further action to come into compliance, Brazil will then ask a WTO arbitrator to determine how much compensation it is entitled to receive for the U.S. failure to comply.

## **BIS APPROVES FIRST FIVE VERIFIED END USERS**

The Bureau of Industry and Security (BIS) Oct. 19 made good on its promise to ease U.S. exports to China with the use of its new Authorization Verified End User (VEU) program, announcing in the Federal Register the first five companies in China that will receive the benefit of VEU treatment. Covered by the initial approvals are some of the most advanced technologies subject to U.S. export controls, including composite aviation materials, semiconductor manufacturing equipment and analog-to-digital converters. BIS Under Secretary Mario Mancuso says "a couple of dozen" other VEU applications are now in the pipeline.

Getting VEUs were: Applied Materials China, a subsidiary of Applied Materials, USA; Boeing Hexcel AVIC I, a joint venture of Boeing and Hexcel; National Semiconductor Corporation, Semiconductor Manufacturing International Corporation (SMIC); and Shanghai Hua Hong NEC Corporation (HHNEC). The VEUs covered multiple products and manufacturing sites in China.

Although most of these applications came into BIS at the end of July, their approval was apparently delayed because of difficulty scheduling meetings of the interagency End-User Review Committee that was created to review the applications, according to Karen Murphy, senior director of trade for Applied Materials. "It was a big hurdle to get the committee together," she told WTTL. Although China's Ministry of Commerce (MofCom) had issued a statement saying Chinese firms needed its approval to allow foreign inspections of their facilities, Murphy said Applied Materials was not required to get such approval before receiving its VEU authorization. Getting MofCom's approval will be up to BIS and U.S. officials in Beijing. "If the U.S. government can't get it, it's not our problem," she said. Murphy said U.S. exporters that intend to export to VEU holders should contact them in advance to determine any conditions that apply because not all conditions are being made public in the Federal Register notice announcing the VEU authorization.

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COATED PAPER: ITA Oct. 18 made final CVD ruling on coated free sheet paper from China, adding 7.40% duty on one respondent, 44.25% on second and 7.40% China-wide rate to antidumping margins. It also made final antidumping and CVD rulings on imports from Indonesia and Korea.

IEEPA: President Bush Oct. 16 signed S. 1612 into law, raising potential maximum civil fines for EAR and trade sanctions violations under IEEPA to \$200,000 (see **WTTL**, Oct. 1, page 1).

SUDAN: Senate Banking Committee Oct. 17 on voice vote approved Sudan Accountability and Divestment Act, which would give states and local governments authority to divest from firms doing business in Sudan.

MANDATORY SNAP: BIS in Oct. 19 Federal Register proposed mandatory electronic licensing.

ITAR EXEMPTIONS: GAO report released Oct. 19 (GAO-07-1103) criticized State and Defense for having "disparate understandings" of ITAR exemptions and not having data on their use.